

protect or restore a marine mammal stock or species covered by such a plan.

[64 FR 9088, Feb. 24, 1999]

§ 229.31 Pacific Offshore Cetacean Take Reduction Plan.

(a) *Purpose and scope.* The purpose of this section is to implement the Pacific Offshore Cetacean Take Reduction Plan. Paragraphs (b) through (d) of this section apply to all U.S. drift gillnet fishing vessels operating in waters seaward of the coast of California or Oregon, including adjacent high seas waters. For purposes of this section, the fishing season is defined as beginning May 1 and ending on January 31 of the following year.

(b) *Extenders.* An *extender* is a line that attaches a buoy (float) to a drift gillnet's floatline. The floatline is attached to the top of the drift gillnet. All extenders (buoy lines) must be at least 6 fathoms (36 ft; 10.9 m) in length during all sets. Accordingly, all floatlines must be fished at a minimum of 36 feet (10.9 m) below the surface of the water.

(c) *Pingers.* (1) For the purposes of this paragraph (c), a pinger is an acoustic deterrent device which, when immersed in water, broadcasts a 10 kHz (\pm 2 kHz) sound at 132 dB (\pm 4 dB) re 1 micropascal at 1 m, lasting 300 milliseconds (\pm 15 milliseconds), and repeating every 4 seconds (\pm .2 seconds); and remains operational to a water depth of at least 100 fathoms (600 ft or 182.88 m).

(2) While at sea, operators of drift gillnet vessels with gillnets onboard must carry enough pingers on the vessel to meet the requirements set forth under paragraphs (c)(3) through (6) of this section.

(3) *Floatline.* Pingers shall be attached within 30 ft (9.14 m) of the floatline and spaced no more than 300 ft (91.44 m) apart.

(4) *Leadline.* Pingers shall be attached within 36 ft (10.97 m) of the leadline and spaced no more than 300 ft (91.44 m) apart.

(5) *Staggered Configuration.* Pingers attached within 30 ft (9.14 m) of the floatline and within 36 ft (10.97 m) of the leadline shall be staggered such that the horizontal distance between them is no more than 150 ft (45.5 m).

(6) Any materials used to weight pingers must not change its specifications set forth under paragraph (c)(1) of this section.

(7) The pingers must be operational and functioning at all times during deployment.

(8) If requested, NMFS may authorize the use of pingers with specifications or pinger configurations differing from those set forth in paragraphs (c)(1) and (c)(3) of this section for limited, experimental purposes within a single fishing season.

(d) *Skipper education workshops.* After notification from NMFS, vessel operators must attend a skipper education workshop before commencing fishing each fishing season. For the 1997/1998 fishing season, all vessel operators must have attended one skipper education workshop by October 30, 1997. NMFS may waive the requirement to attend these workshops by notice to all vessel operators.

[62 FR 51813, Oct. 3, 1997, as amended at 63 FR 27861, May 21, 1998; 64 FR 3432, Jan. 22, 1999]

§ 229.32 Atlantic large whale take reduction plan regulations.

(a)(1) *Regulated waters.* The regulations in this section apply to all U.S. waters in the Atlantic except for the areas exempted in paragraph (a)(2) of this section.

(2) *Exempted waters.* The regulations in this section do not apply to waters landward of the first bridge over any embayment, harbor, or inlet and to waters landward of the following lines:

Rhode Island

41° 27.99' N 71° 11.75' W TO 41° 28.49' N 71° 14.63' W (Sakonnet River)
41° 26.96' N 71° 21.34' W TO 41° 26.96' N 71° 25.92' W (Narragansett Bay)
41° 22.41' N 71° 30.80' W TO 41° 22.41' N 71° 30.85' W (Pt. Judith Pond Inlet)
41° 21.31' N 71° 38.30' W TO 41° 21.30' N 71° 38.33' W (Ninigret Pond Inlet)
41° 19.90' N 71° 43.08' W TO 41° 19.90' N 71° 43.10' W (Quonochontaug Pond Inlet)
41° 19.66' N 71° 45.75' W TO 41° 19.66' N 71° 45.78' W (Weekapaug Pond Inlet)

New York

West of the line from the Northern fork of the eastern end of Long Island, NY (Orient Pt.) to Plum Island to Fisher's Island to Watch Hill, RI. (Long Island Sound)

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41° 11.40' N 72° 09.70' W TO 41° 04.50' N 71° 51.60' min; W (Gardiners Bay)
 40° 50.30' N 72° 28.50' W TO 40° 50.36' N 72° 28.67' W (Shinnecock Bay Inlet)
 40° 45.70' N 72° 45.15' W TO 40° 45.72' N 72° 45.30' W (Moriches Bay Inlet)
 40° 37.32' N 73° 18.40' W TO 40° 38.00' N 73° 18.56' W (Fire Island Inlet)
 40° 34.40' N 73° 34.55' W TO 40° 35.08' N 73° 35.22' W (Jones Inlet)

New Jersey

39° 45.90' N 74° 05.90' W TO 39° 45.15' N 74° 06.20' W (Barnegat Inlet)
 39° 30.70' N 74° 16.70' W TO 39° 26.30' N 74° 19.75' W (Beach Haven to Brigantine Inlet)
 38° 56.20' N 74° 51.70' W TO 38° 56.20' N 74° 51.90' W (Cape May Inlet)
 39° 16.70' N 75° 14.60' W TO 39° 11.25' N 75° 23.90' W (Delaware Bay)

Maryland/Virginia

38° 19.48' N 75° 05.10' W TO 38° 19.35' N 75° 05.25' W (Ocean City Inlet)
 37° 52.50' N 75° 24.30' W TO 37° 11.90' N 75° 48.30' W (Chincoteague to Ship Shoal Inlet)
 37° 11.10' N 75° 49.30' W TO 37° 10.65' N 75° 49.60' W (Little Inlet)
 37° 07.00' N 75° 53.75' W TO 37° 05.30' N 75° 56.50' W (Smith Island Inlet)

North Carolina to Florida

All marine and tidal waters landward of the 72 COLREGS demarcation line (International Regulations for Preventing Collisions at Sea, 1972), as depicted or noted on nautical charts published by the National Oceanic and Atmospheric Administration (Coast Charts 1:80,000 scale), and as described in 33 CFR part 80.

(b) *Gear marking requirements.* (1) Specified gear consists of lobster trap gear and gillnet gear set in specified areas.

(2) *Specified areas.* The following areas are specified for gear marking purposes: CCB Restricted Area, Stellwagen Bank/Jeffreys Ledge Restricted Area, Northern Nearshore Lobster Waters Area, GSC Restricted Lobster Area, GSC Restricted Gillnet Area, GSC Sliver Restricted Area, Southern Nearshore Lobster Waters Area, Offshore Lobster Waters Area, Other Northeast Gillnet Waters Area, and Southeast U.S. Observer Area.

(3) *Requirements for Southeast U.S. Observer Area.* Any person who owns or fishes with specified fishing gear in the Southeast U.S. Observer Area must mark that gear in accordance with (b)(3)(i) and (b)(3)(ii) of this section, unless otherwise required by the Assistant

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Administrator under paragraph (g) of this section.

(i) *Color code.* Specified gear in the Southeast U.S. Observer Area must be marked with the appropriate color code to designate gear types and areas as follows:

(A) *Gear type code—Gillnet gear.* Gillnet gear must be marked with a green marking.

(B) *Area code.* Gear set in the Southeast U.S. Observer Area must be marked with a blue marking.

(ii) *Markings.* All specified gear in specified areas must be marked with two color codes, one designating the gear type, the other indicating the area where the gear is set. Each color of the two-color code must be permanently marked on or along the line or lines specified under (f)(2) of this section. Each color mark of the color codes must be clearly visible when the gear is hauled or removed from the water. Each mark must be at least 4 inches (10.2 cm) long. The two color marks must be placed within 6 inches (15.2 cm) of each other. If the color of the rope is the same as or similar to a color code, a white mark may be substituted for that color code. In marking or affixing the color code, the line may be dyed, painted, or marked with thin colored whipping line, thin colored plastic, or heat-shrink tubing, or other material; or a thin line may be woven into or through the line; or the line may be marked as approved in writing by the Assistant Administrator (AA).

(4) *Requirements for other specified areas.* Any person who owns or fishes with specified gear in the other specified areas must mark that gear in accordance with (b)(4)(i) and (b)(4)(ii) of this section, unless otherwise required by the Assistant Administrator under paragraph (g) of this section. For the purposes of the following gear marking requirements only, lobster trap gear set in the CCB Restricted Area during the winter restricted period, the Federal-water portion of the CCB Restricted Area during the off-peak period, and the Stellwagen Bank/Jeffreys Ledge Restricted Area shall comply with the requirements for the Northern Nearshore Lobster Waters Area. Lobster gear set in the GSC Restricted

Lobster Area shall comply with the requirements for the Offshore Lobster Waters Area. Similarly, anchored gillnet gear set in the CCB Restricted area, Stellwagen Bank/Jeffreys Ledge Restricted Area, GSC Restricted Gillnet Area, and GSC Silver Restricted Area shall comply with the requirements for gillnet gear in the Other Northeast Gillnet Waters Area.

(i) *Color code.* Specified gear must be marked with the appropriate colors to designate gear-types and areas as follows:

(A) Lobster trap gear in the Northern Nearshore Lobster Waters Area must be marked with a red marking.

(B) Lobster trap gear in the Southern Nearshore Lobster Waters Area must be marked with an orange marking.

(C) Lobster trap gear in the Offshore Lobster Waters Area must be marked with a black marking.

(D) Gillnet gear in the Other Northeast Gillnet Waters Area must be marked with a green marking.

(ii) *Markings.* All specified gear in specified areas must be marked with one color code (see paragraph (4)(i) of this section) which indicates the gear type and general area where the gear is set. Each color code must be permanently affixed on or along the line or lines. Each color code must be clearly visible when the gear is hauled or removed from the water. Each mark must be at least 4 inches (10.2 cm) long. The mark must be placed along the buoy line midway in the water column.

(5) *Changes to requirements.* If the Assistant Administrator revises the gear marking requirements in accordance with paragraph (g) of this section, the gear must be marked in compliance with those requirements.

(c) *Restrictions applicable to lobster trap gear in regulated waters*—(1) Universal lobster trap gear requirements. In addition to the area-specific measures listed in (c)(2) through (c)(8) of this section, all lobster trap gear in regulated waters, including the Northern Inshore State Lobster Waters Area, must comply with the universal gear requirements listed here¹. The Assistant

Administrator may revise these requirements in accordance with paragraph (g) of this section.

(i) *No line floating at the surface.* No person may fish with lobster trap gear that has any portion of the buoy line that is directly connected to the gear at the ocean bottom floating at the surface at any time. If more than one buoy is attached to a single buoy line or if a high flyer and a buoy are used together on a single buoy line, floating line may be used between these objects.

(ii) *No wet storage of gear.* Lobster traps must be hauled out of the water at least once every 30 days.

(2) *Cape Cod Bay Restricted Area*—(i) *Area.* The CCB restricted area consists of the CCB right whale critical habitat area specified under 50 CFR 226.203(b) unless the Assistant Administrator changes that area in accordance with paragraph (g) of this section.

(ii) *Area-specific gear requirements during the winter restricted period.* No person may fish with lobster trap gear in the CCB Restricted Area during the winter restricted period unless that person's gear complies with the gear marking requirements in paragraph (b) of this section, the universal lobster trap gear requirements in (c)(1) of this section, and the area-specific requirements listed below for the winter restricted period. The Assistant Administrator may revise these requirements in accordance with paragraph (g) of this section.

(A) *Winter restricted period.* The winter restricted period for the CCB Restricted Area is from January 1 through May 15 of each year unless the Assistant Administrator changes that area in accordance with paragraph (g) of this section.

(B) *Weak links.* All buoy lines shall be attached to the main buoy with a weak link meeting the following specifications:

(1) The breaking strength of the weak link must not exceed 500 lb (226.7 kg).

(2) The weak link must be chosen from the following list of combinations approved by the NMFS gear research program: swivels, plastic weak links, rope of appropriate diameter, hog

¹Fishers are also encouraged to maintain their buoy lines to be as knot-free as possible. Splices are not considered to be an en-

tanglement threat and are thus preferable to knots.

rings, rope stapled to a buoy stick, or other materials or devices approved in writing by the Assistant Administrator.

(C) *Single traps and multiple-trap trawls.* Single traps and three-trap trawls are prohibited. All traps must be set in either a two-trap string or in a trawl of four or more traps. A two-trap string must have no more than one buoy line.

(D) *Sinking buoy lines.* All buoy lines must be comprised of sinking line except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line.

(E) *Sinking ground line.* All ground lines must be comprised entirely of sinking line.

(iii) *Area-specific gear requirements during the other restricted period.* No person may fish with lobster trap gear in the CCB Restricted Area during the other restricted period unless that person's gear complies with the gear marking requirements in paragraph (b) of this section and the universal lobster trap gear requirements in (c)(1) of this section as well as the area-specific requirements listed below for the other restricted period. The Assistant Administrator may revise these requirements in accordance with paragraph (g) of this section.

(A) *Other restricted period.* The other restricted period for the CCB Restricted Area is from May 16 through December 31 of each year unless the Assistant Administrator revises that period in accordance with paragraph (g) of this section.

(B) *Gear requirements—(1) State-water portion.* No person may fish with lobster trap gear in the state-water portion of the CCB Restricted Area during the other restricted period unless that person's gear complies with the requirements for the Northern Inshore State Lobster Waters Area listed in (c)(6) of this section. The Assistant Administrator may revise these requirements in accordance with paragraph (g) of this section.

(2) *Federal-water portion.* No person may fish with lobster trap gear in the federal-water portion of the CCB Restricted Area during the other restricted period unless that person's

gear complies with the requirements for the Northern Nearshore Lobster Waters Area in (c)(7) of this section. The Assistant Administrator may revise these requirements in accordance with paragraph (g) of this section.

(3) *Great South Channel Restricted Lobster Area—(i) Area.* The GSC Restricted Lobster Area consists of the GSC right whale critical habitat area specified under 50 CFR 226.203(a) unless the Assistant Administrator changes that area in accordance with paragraph (g) of this section.

(ii) *Closure during the spring restricted period—(A) Spring restricted period.* The spring restricted period for the GSC Restricted Lobster Area is from April 1 through June 30 of each year unless the Assistant Administrator revises this period in accordance with paragraph (g) of this section.

(B) *Closure.* During the spring restricted period, no person may fish with or set lobster trap gear in this Area unless the Assistant Administrator specifies gear modifications or alternative fishing practices in accordance with paragraph (g) of this section and the gear or practices comply with those specifications.

(iii) *Area-specific gear requirements for the other restricted period.* No person may fish with lobster trap gear in the GSC Restricted Lobster Area unless that person's gear complies with the gear marking requirements in paragraph (b) of this section, the universal lobster trap gear requirements in (c)(1) of this section, and the area-specific requirements listed here for the other restricted period. The Assistant Administrator may revise these requirements in accordance with paragraph (g) of this section.

(A) *Other restricted period.* The other restricted period for the GSC Restricted Lobster Area is July 1 through March 31, unless the Assistant Administrator revises the timing in accordance with paragraph (g) of this section.

(B) *Weak links.* All buoy lines must be attached to the main buoy with a weak link meeting the specifications listed in subparagraph (c)(5)(ii)(A) below for the Offshore Lobster Waters Area.

(4) *Stellwagen Bank/Jeffreys Ledge Restricted Area—(i) Area.* The Stellwagen Bank/Jeffreys Ledge Restricted Area

includes all federal waters of the Gulf of Maine, except those designated as right whale critical habitat under 50 CFR 226.203(b), that lie south of 43°15' N. lat. and west of 70° W long. The Assistant Administrator may change that area in accordance with paragraph (g) of this section.

(ii) *Area-specific gear requirements.* No person may fish with lobster trap gear in the Stellwagen Bank/Jeffreys Ledge Restricted Area unless that person's gear complies with the gear marking requirements in paragraph (b) of this section, the universal lobster trap gear requirements in (c)(1) of this section, and the requirements listed for the Northern Nearshore Lobster Waters Area in (c)(7) of this section. The Assistant Administrator may revise these requirements in accordance with paragraph (g) of this section.

(5) *Offshore Lobster Waters Area—(i) Area.* The Offshore Lobster Waters Area includes all waters bounded by straight lines connecting the following points in the order stated (including the area known as the Area 2/3 Overlap in the American Lobster Fishery regulations at 50 CFR 697.18 but not including the GSC Restricted Lobster Area):

Point	Latitude (°N)	Longitude (°W)
A	43° 58'	67° 22'
B	43° 41'	68° 00'
C	43° 12'	69° 00'
D	42° 49'	69° 40'
E	42° 15.5'	69° 40'
F	42° 10'	69° 56'
K	41° 10'	69° 6.5'
N	40° 45.5'	71° 34'
M	40° 27.5'	72° 14'
U	40° 12.5'	72° 48.5'
V	39° 50'	73° 01'
X	38° 39.5'	73° 40'
Y	38° 12'	73° 55'
Z	37° 12'	74° 44'
ZA	35° 34'	74° 51'
ZB	35° 14.5'	75° 31' ¹

¹From Point ZB east to the EEZ boundary, thence along the seaward EEZ boundary to Point A.

(ii) *Area-specific gear requirements.* No person may fish with lobster trap gear in the Offshore Lobster Waters Area unless that person's gear complies with the gear marking requirements in paragraph (b) of this section, the universal lobster trap gear requirements in (c)(1) of this section, and the gear requirements listed here. The Assistant Administrator may revise these re-

quirements in accordance with paragraph (g) of this section.

(A) *Weak links on all buoy lines.* All buoy lines must be attached to the main buoy with a weak link meeting the following specifications:

(1) The weak link must be chosen from the following list of combinations approved by the NMFS gear research program: swivels, plastic weak links, rope of appropriate diameter, hog rings, rope stapled to a buoy stick, or other materials or devices approved in writing by the Assistant Administrator.

(2) The breaking strength of these weak links may not exceed 2,000 lb (906.9 kg).

(3) Weak links must be designed such that the bitter end of the buoy line is clean and free of any knots when the link breaks. Splices are not considered to be knots for the purposes of this provision.

(B) [Reserved]

(6) *Northern Inshore State Lobster Waters Area—(i) Area.* The Northern Inshore State Lobster Waters Area includes the state waters of Rhode Island, Massachusetts, New Hampshire, and Maine but does not include waters exempted under (a)(2) of this section.

(ii) *Area-specific gear requirements.* No person may fish with lobster trap gear in the Northern Inshore State Lobster Waters Area unless that person's gear complies with the universal lobster trap gear requirements in (c)(1) of this section and at least one of the options on the Lobster Take Reduction Technology List in (c)(9) of this section. The Assistant Administrator may revise this requirement in accordance with paragraph (g) of this section.

(7) *Northern Nearshore Lobster Waters Area—(i) Area.* The Northern Nearshore Lobster Waters Area includes all Federal waters of EEZ Nearshore Management Area 1, Area 2, and the Outer Cape Lobster Management Area as defined in the American Lobster Fishery regulations at 50 CFR 697.18, with the exception of the CCB Restricted Area and the Stellwagen Bank/Jeffreys Ledge Restricted Area.

(ii) *Area-specific gear requirements.* No person may fish with lobster trap gear in the Northern Nearshore Lobster Waters Area unless that person's gear

complies with the gear marking requirements in paragraph (b) of this section, the universal lobster trap gear requirements in (c)(1) of this section, and the gear requirements listed below for this area. The Assistant Administrator may revise these requirements in accordance with paragraph (g) of this section.

(A) *Weak Links.* All buoy lines must be attached to the main buoy with a weak link meeting the following specifications:

(1) The weak link must be chosen from the following list of combinations approved by the NMFS gear research program: swivels, plastic weak links, rope of appropriate diameter, hog rings, rope stapled to a buoy stick, or other materials or devices approved in writing by the Assistant Administrator.

(2) The breaking strength of these weak links must not exceed 600 lb (272.4 kg).

(3) Weak links must be designed such that the bitter end of the buoy line is clean and free of any knots when the link breaks. Splices are not considered to be knots for the purposes of this provision.

(B) *Single traps and multiple-trap trawls.* Single traps are prohibited. All traps must be set in trawls of two or more traps. All trawls up to and including five traps must have no more than one buoy line.

(8) *Southern Nearshore Lobster Waters Area—(i) Area.* The Southern Nearshore Lobster Waters Area includes all state and federal waters which fall within EEZ Nearshore Management Area 4 and EEZ Nearshore Management Area 5 as described in the American Lobster Fishery regulations in 50 CFR 697.18.

(ii) *Area-specific gear requirements for the restricted period—(A) Restricted period.* The restricted period for Southern Nearshore Lobster Waters is year round unless the Assistant Administrator revises this period in accordance with paragraph (g) of this section.

(B) *Gear requirements.* No person may fish with lobster trap gear in the Southern Nearshore Lobster Waters Area during the restricted period unless that person's gear complies with the gear marking requirements specified in paragraph (b) of this section,

the universal lobster trap gear requirements in paragraph (c)(1) of this section, and the following gear requirements for this area, which the Assistant Administrator may revise in accordance with paragraph (g) of this section:

(1) *Buoy Line Weak Links.* All buoy lines must be attached to the main buoy with a weak link placed as close to each individual buoy as operationally feasible that meets the following specifications:

(i) The weak link must be chosen from the following list of combinations approved by the NMFS gear research program: swivels, plastic weak links, rope of appropriate diameter, hog rings, rope stapled to a buoy stick, or other materials or devices approved in writing by the Assistant Administrator.

(ii) The breaking strength of this weak link may not exceed 600 lb (272.4 kg).

(iii) Weak links must be designed such that the bitter end of the buoy line is clean and free of knots when the link breaks. Splices are not considered to be knots for the purpose of this provision.

(2) [Reserved]

(9) *Lobster Take Reduction Technology List.* The following gear modification options comprise the Lobster Take Reduction Technology List:

(i) Through December 31, 2002, all buoy lines must be 7/16 inches (1.11 cm) or less in diameter.

(ii) All buoys must be attached to the buoy line with a weak link meeting the following specifications:

(A) The weak link must be chosen from the following list of combinations approved by the NMFS gear research program: swivels, plastic weak links, rope of appropriate diameter, hog rings, rope stapled to a buoy stick, or other materials or devices approved in writing by the Assistant Administrator.

(B) The breaking strength of these weak links must not exceed 600 lb (272.4 kg).

(C) Weak links must be designed such that the bitter end of the buoy line is clean and free of any knots when the link breaks. Splices are not considered

to be knots for the purposes of this provision.

(iii) All buoy lines must be comprised entirely of sinking and/or neutrally buoyant line.

(iv) All ground lines must be comprised entirely of sinking and/or neutrally buoyant line.

(d) *Restrictions applicable to anchored gillnet gear*—(1) *Universal anchored gillnet gear requirements.* In addition to the area-specific measures listed in (d)(2) through (d)(7) of this section, all anchored gillnet gear in regulated waters must comply with the universal gear requirements listed here². The AA may revise these requirements in accordance with paragraph (g) of this section.

(i) *No line floating at the surface.* No person may fish with anchored gillnet gear that has any portion of the buoy line that is directly connected to the gear on the ocean bottom floating at the surface at any time. If more than one buoy is attached to a single buoy line or if a high flyer and a buoy are used together on a single buoy line, floating line may be used between these objects.

(ii) *No wet storage of gear.* Anchored gillnet gear must be hauled out of the water at least once every 30 days.

(2) *Cape Cod Bay Restricted Area*—(i) *Area.* The CCB Restricted Area consists of the CCB right whale critical habitat area specified under 50 CFR 226.203(b), unless the AA changes the boundaries in accordance with paragraph (g) of this section.

(ii) *Closure during the winter restricted period*—(A) *Winter restricted period.* The winter restricted period for this area is from January 1 through May 15 of each year, unless the AA revises the timing in accordance with paragraph (g) of this section.

(B) *Closure.* During the winter restricted period, no person may fish with anchored gillnet gear in the CCB Restricted Area unless the AA specifies gear restrictions or alternative fishing practices in accordance with paragraph (g) of this section and the gear or prac-

tices comply with those specifications. The AA may waive this closure for the remaining portion of the winter restricted period in any year through a notification in the Federal Register if NMFS determines that right whales have left the critical habitat and are unlikely to return for the remainder of the season.

(iii) *Area-specific gear requirements for the other restricted period*—(A) *Other restricted period.* The other restricted period for the CCB Restricted Area is from May 16 through December 31 of each year unless the AA revises that period in accordance with paragraph (g) of this section.

(B) No person may fish with anchored gillnet gear in the CCB Restricted Area during the other restricted period unless that person's gear complies with the gear marking requirements specified in paragraph (b) of this section, the universal anchored gillnet gear requirements specified in (d)(1) of this section, and the area-specific requirements listed in (d)(6)(ii) of this section for the Other Northeast Gillnet Waters Area. The AA may revise these requirements in accordance with paragraph (g) of this section.

(3) *Great South Channel Restricted Gillnet Area*—(i) *Area.* The GSC Restricted Gillnet Area consists of the area bounded by lines connecting the following four points: 41°02.2' N/69°02' W, 41°43.5' N/69°36.3' W, 42°10' N/68°31' W, and 41°38' N/68°13' W. This area includes most of the GSC right whale critical habitat area specified under 50 CFR 226.203(a), with the exception of the sliver along the western boundary described in (d)(4)(i) here. The AA may revise these boundaries in accordance with paragraph (g) of this section.

(ii) *Closure during the spring restricted period*—(A) *Spring restricted period.* The spring restricted period for the GSC Restricted Gillnet Area is from April 1 through June 30 of each year unless the AA revises that period in accordance with paragraph (g) of this section.

(B) *Closure.* During the spring restricted period, no person may set or fish with anchored gillnet gear in the GSC Restricted Gillnet Area unless the AA specifies gear restrictions or alternative fishing practices in accordance with paragraph (g) of this section and

²Fishers are also encouraged to maintain their buoy lines to be as knot-free as possible. Splices are not considered to be an entanglement threat and are thus preferable to knots.

the gear or practices comply with those specifications.

(iii) *Area-specific gear requirements for the other restricted period*—(A) *Other restricted period*. The other restricted period for the GSC Restricted Gillnet Area is from July 1 through March 31 of each year unless the AA revises that period in accordance with paragraph (g) of this section.

(B) During the other restricted period, no person may fish with anchored gillnet gear in the GSC Restricted Gillnet Area unless that person's gear complies with the gear marking requirements specified in paragraph (b) of this section, the universal anchored gillnet gear requirements specified in (d)(1) of this section, and the area-specific requirements listed in (d)(6)(ii) of this section for the Other Northeast Gillnet Waters Area. The AA may revise these requirements in accordance with paragraph (g) of this section.

(4) *Great South Channel Sliver Restricted Area*—(i) *Area*. The GSC Sliver Restricted Area consists of the area bounded by lines connecting the following points: 41°02.2' N/69°02' W, 41°43.5' N/69°36.3' W, 41°40' N/69°45' W, and 41°00' N/69°05' W. The AA may revise these boundaries in accordance with paragraph (g) of this section.

(ii) *Area-specific gear requirements*. No person may fish with anchored gillnet gear in the GSC Sliver Restricted Area unless that gear complies with the gear marking requirements specified in paragraph (b) of this section, the universal anchored gillnet gear requirements specified in (d)(1) of this section, and the area-specific requirements listed in subparagraph (d)(6)(ii) of this section for the Other Northeast Gillnet Waters Area. The AA may revise these requirements in accordance with paragraph (g) of this section.

(5) *Stellwagen Bank/Jeffreys Ledge Restricted Area*—(i) *Area*. The Stellwagen Bank/Jeffreys Ledge Restricted Area includes all Federal waters of the Gulf of Maine, except those designated as right whale critical habitat under 50 CFR 226.203(b), that lie south of 43°15' N. lat. and west of 70° W long. The AA may change these boundaries in accordance with paragraph (g) of this section.

(ii) *Area-specific gear requirements*. No person may fish with anchored gillnet gear in the Stellwagen Bank/Jeffreys Ledge Restricted Area unless that gear complies with the gear marking requirements specified in paragraph (b) of this section, the universal anchored gillnet gear requirements specified in (d)(1) of this section, and the area-specific requirements listed in (d)(6)(ii) of this section for the Other Northeast Gillnet Waters Area. The AA may revise these requirements in accordance with paragraph (g) of this section.

(6) *Other Northeast Gillnet Waters Area*—(i) *Area*. The Other Northeast Gillnet Waters Area consists of all U.S. waters west of the U.S./Canada border and north of a line extending due east from the Virginia/North Carolina border with the exception of the CCB Restricted Area, Stellwagen Bank/Jeffreys Ledge Restricted Area, GSC Restricted Gillnet Area, GSC Sliver Restricted Area, Mid-Atlantic Coastal Waters Area, and exempted waters listed in (a)(2) of this section.

(ii) *Area-specific gear requirements*. No person may fish with anchored gillnet gear in the Other Northeast Gillnet Waters Area unless that person's gear complies with the gear marking requirements specified in paragraph (b) of this section, the universal anchored gillnet gear requirements specified in (d)(1) of this section, and the area-specific requirements listed below. The AA may revise these requirements in accordance with paragraph (g) of this section.

(A) *Buoy line weak links*. All buoy lines must be attached to the main buoy with a weak link meeting the following specifications:

(1) The weak link must be chosen from the following list of combinations approved by the NMFS gear research program: swivels, plastic weak links, rope of appropriate diameter, hog rings, rope stapled to a buoy stick, or other materials or devices approved in writing by the AA.

(2) The breaking strength of these weak links must not exceed 1100 lb (498.8 kg).

(3) Weak links must be designed such that the bitter end of the buoy line is clean and free of any knots when the link breaks. Splices are not considered

to be knots for the purposes of this provision.

(B) *Net panel weak links.* All net panels must contain weak links meeting the following specifications:

(1) Weak links must be inserted in the center of the floatline (headrope) of each net panel in a net string.

(2) The breaking strength of these weak links must not exceed 1100 lb (498.8 kg).

(C) *Anchoring System.* All anchored gillnet strings containing 20 or fewer net panels must be securely anchored with one of the following anchoring systems:

(1) Anchors with the holding power of at least a 22 lb (10.0 kg) Danforth-style anchor at each end of the net string,

(2) Dead weights weighing at least 50 lb (22.7 kg) at each end of the net string, or

(3) A lead line weighing at least 100 lb (45.4 kg) per 300 ft (91.4 m) for each net panel in the net string.

(7) *Mid-Atlantic Coastal Waters Area—*
(i) *Area.* The Mid-Atlantic Coastal Waters Area consists of all U.S. waters bounded by the line defined by the following points: The southern shore of Long Island, NY, at 72° 30' W. long., then due south to 33° 51' N. lat., thence west to the North Carolina-South Carolina border, as defined in § 229.2.

(ii) *Area-specific gear requirements.* From December 1 through March 31, no person may fish with anchored gillnet gear in the Mid-Atlantic Coastal Waters Area unless that person's gear complies with the gear marking requirements specified in paragraph (b) of this section, the universal anchored gillnet gear requirements specified in paragraph (d)(1) of this section, and the following area-specific requirements, which the Assistant Administrator may revise in accordance with paragraph (g) of this section:

(A) *Buoy line weak links.* All buoy lines must be attached to the main buoy with a weak link placed as close to each individual buoy as operationally feasible that meets the following specifications:

(1) The weak link must be chosen from the following list of combinations approved by the NMFS gear research program: Swivels, plastic weak links, rope of appropriate breaking strength,

hog rings, rope stapled to a buoy stick, or other materials or devices approved in writing by the Assistant Administrator.

(2) The breaking strength of these weak links may not exceed 1,100 lb (498.8 kg).

(3) Weak links must be designed such that the bitter end of the buoy line is clean and free of any knots when the link breaks. Splices are not considered to be knots for the purposes of this provision.

(B) *Net panel weak links.* All net panels must contain weak links that meet the following specifications:

(1) Weak links must be inserted in the center of the floatline of each 50-fathom (300-ft or 91.4-m) net panel in a net string or every 25 fathoms for longer panels.

(2) The breaking strength of these weak links may not exceed 1,100 lb (498.8 kg).

(C) *Tending/anchoring.* All gillnets must return to port with the vessel or be anchored at each end with an anchor capable of the holding power of at least a 22-lb (10.0-kg) Danforth-style anchor.

(8) *Gillnet Take Reduction Technology List.* The following gear characteristics comprise the Gillnet Take Reduction Technology List:

(i) All buoy lines are attached to the buoy line with a weak link having a maximum breaking strength of up to 1,100 lb (498.8 kg). Weak links may include swivels, plastic weak links, rope of appropriate diameter, hog rings, rope stapled to a buoy stick, or other materials or devices approved in writing by the Assistant Administrator.

(ii) Weak links with a breaking strength of up to 1,100 lb (498.8 kg) must be inserted in the center of the floatline (headrope) of each 50 fathom net panel or every 25 fathoms for longer panels.

(iii) All buoy lines must be comprised entirely of sinking and/or neutrally buoyant line.

(e) *Restrictions applicable to mid-Atlantic driftnet gear—*(1) *Restrictions.* From December 1 through March 31 of the following year, no person may fish with driftnet gear at night in the mid-Atlantic coastal waters area unless that gear is tended. During that time, all driftnet gear set by that vessel in the

mid-Atlantic coastal waters area must be removed from the water and stowed on board the vessel before a vessel returns to port. The Assistant Administrator may revise these requirements in accordance with paragraph (g) of this section.

(f) *Restrictions applicable to shark gillnet gear*—(1) *Management areas*—(i) *Southeast U.S. restricted area*. The southeast U.S. restricted area consists of the area from 32°00' N lat. (near Savannah, GA) south to 27°51' N lat. (near Sebastian Inlet, FL), extending from the shore eastward to 80°00' W long., unless the Assistant Administrator changes that area in accordance with paragraph (g) of this section.

(ii) *Southeast U.S. observer area*. The southeast U.S. observer area consists of the southeast U.S. restricted area and an additional area along the coast south to 26°46.5' N lat. (near West Palm Beach, FL) and extending from the shore eastward out to 80°00' W long., unless the Assistant Administrator changes that area in accordance with paragraph (g) of this section.

(2) *Gear marking requirements*. From November 15 through March 31 of the following year, no person may fish with gillnet gear in the southeast U.S. observer area unless that gear is marked according to the gear marking code specified under paragraph (b) of this section. All buoy lines must be marked within 2 ft (0.6 m) of the top of the buoy line and midway along the length of the buoy line. From November 15, 1999, each net panel must be marked along both the float line and the lead line at least once every 100 yards (92.4 m).

(3) *Restrictions*—(i) *Observer requirement*. No person may fish with shark gillnet gear in the southeast U.S. observer area from November 15 through March 31 of the following year unless the operator of the vessel calls the SE Regional Office in St. Petersburg, FL, not less than 48 hours prior to departing on any fishing trip in order to arrange for observer coverage. If the Regional Office requests that an observer be taken on board a vessel during a fishing trip at any time from November 15 through March 31 of the following year, no person may fish with shark gillnet gear aboard that vessel in the

southeast U.S. observer area unless an observer is on board that vessel during the trip.

(ii) *Closure*. Except as provided under paragraph (f)(3)(iii) of this section, no person may fish with shark gillnet gear in the southeast U.S. restricted area during the closed period. The closed period for this area is from November 15 through March 31 of the following year, unless the Assistant Administrator changes that closed period in accordance with paragraph (g) of this section.

(iii) *Special provision for strikenets*. Fishing for sharks with strikenet gear is exempt from the restriction under paragraph (f)(3)(ii) of this section if:

(A) No nets are set at night or when visibility is less than 500 yards (460 m).

(B) Each set is made under the observation of a spotter plane.

(C) No net is set within 3 nautical miles of a right, humpback, fin or minke whale.

(D) If a right, humpback, fin or minke whale moves within 3 nautical miles of the set gear, the gear is removed immediately from the water.

(g) *Other provisions*. In addition to any other emergency authority under the Marine Mammal Protection Act, the Endangered Species Act, the Magnuson-Stevens Fishery Conservation and Management Act, or other appropriate authority, the Assistant administrator may take action under this section in the following situations:

(1) *Entanglements in critical habitat*. If a serious injury or mortality of a right whale occurs in the Cape Cod Bay critical habitat from January 1 through May 15, in the Great South Channel Restricted Area from April 1 through June 30, or in the Southeast U.S. Restricted Area from November 15 through March 31 as a result of an entanglement by lobster or gillnet gear allowed to be used in those areas and times, the Assistant Administrator shall close that area to that gear type for the rest of that time period and for that same time period in each subsequent year, unless the Assistant Administrator revises the restricted period in accordance with paragraph (g)(2) of this section or unless other measures are implemented under paragraph (g)(2).

(2) *Other special measures.* The Assistant Administrator may revise the requirements of this section through a publication in the FEDERAL REGISTER if:

- (i) NMFS verifies that certain gear characteristics are both operationally effective and reduce serious injuries and mortalities of endangered whales;
- (ii) New gear technology is developed and determined to be appropriate;
- (iii) Revised breaking strengths are determined to be appropriate;
- (iv) New marking systems are developed and determined to be appropriate;
- (v) NMFS determines that right whales are remaining longer than expected in a closed area or have left earlier than expected;
- (vi) NMFS determines that the boundaries of a closed area are not appropriate;
- (vii) Gear testing operations are considered appropriate; or
- (viii) Similar situations occur.

(3) For the purpose of reducing the risk of fishery interactions with right whales, NMFS may establish a temporary Dynamic Area Management (DAM) zone in the following manner:

(i) *Trigger.* Upon receipt of a single reliable report from a qualified individual of three or more right whales within an area NMFS will plot each individual sighting (event) and draw a circle with a 2.8 nm (5.2 km) radius around it, which will be adjusted for the number of right whales sighted such that a density of at least 0.04 right whales per nm² (1.85 km²) is maintained within the circle. If any circle or group of contiguous circles includes 3 or more right whales, NMFS would consider this core area and its surrounding waters a candidate DAM zone.

(ii) *DAM zone.* Areas for consideration for DAM zones are limited to areas north of 40° N latitude. Having identified any circle or group of contiguous circles including 3 or more right whales as candidates for protection, as identified in paragraph (g)(3)(i) of this section, NMFS will determine the extent of the DAM zone as follows:

(A) A larger circular zone will be drawn to extend 15 nm (27.8 km) from the perimeter of a circle around each core area.

(B) The DAM zone will then be defined by a polygon drawn outside but tangential to the circular buffer zone(s). The latitudinal and longitudinal coordinates of the corners of the polygon will then be identified.

(iii) *Requirements and prohibitions within DAM zones.* Notice of specific area restrictions will be published in the FEDERAL REGISTER and will become effective 2 days after publication. Gear not in compliance with the imposed restrictions may not be set in the DAM zone after the effective date. NMFS may either:

(A) require owners of gillnet and lobster gear set within the DAM zone to remove all such gear within 2 days after notice is published in the FEDERAL REGISTER, or

(B) allow fishing within a DAM zone with gear modifications determined by NMFS to sufficiently reduce the risk of entanglement to right whales. Acceptable fishing practices and gear modifications would be identified in the FEDERAL REGISTER notification implementing the DAM zone.

(C) The determination of whether restrictions will be imposed within a DAM zone would be based on NMFS' review of a variety of factors, including but not limited to: the location of the DAM zone with respect to other fishery closure areas, weather conditions as they relate to the safety of human life at sea, the type and amount of gear already present in the area, and a review of recent right whale entanglement and mortality data.

(iv) *Restricted period.* Any DAM zone will remain in effect for a minimum period of 15 days. At the conclusion of the 15-day period, the DAM zone will expire automatically unless it is extended by subsequent publication in the FEDERAL REGISTER.

(v) *Extensions of the restricted period.* Any 15-day period may be extended if NMFS determines that the trigger established in paragraph (g)(3)(i) of this section continues to be met.

(vi) *Reopening of restricted zone.* NMFS may remove any gear restriction or prohibition and reopen the DAM zone prior to its automatic expiration if there are no confirmed sightings of right whales for at least 1

week, or other credible evidence indicates that right whales have left the DAM zone. NMFS will notify the public of the reopening of a DAM zone prior to the expiration of the 15-day period by issuing a document in the FEDERAL REGISTER and through other appropriate media.

(4) **Seasonal Area Management (SAM) Program.** All vessels deploying anchored gillnet or lobster trap gear may fish in the SAM Areas as described in paragraphs (g)(4)(i)(A) and (g)(4)(ii)(A) of this section, provided the vessel complies with the gear requirements during the times specified in paragraphs (g)(4)(i)(B) and (g)(4)(ii)(B) of this section. Copies of a chart depicting these areas are available from the Regional Administrator upon request.

(i) *SAM West.* (A) *Area.* SAM West consists of all waters bounded by straight lines connecting the following points in the order stated:

SAM WEST

Point	N. Lat.	W. Long.
SAM1	42°04.8'	70°10'
SAM2	42°12'	70°15'
SAM3	42°30'	70°15'
SAM4	42°30'	69°24'
SAM5	41°48.9'	69°24'
SAM6	41°45'	69°33'
SAM7	41°45'	69°55.8'

(B) *Gear requirements.* Unless otherwise authorized by the Assistant Administrator for Fisheries, NMFS, in accordance with paragraph (g)(2) of this section, from March 1 through April 30, no person may fish with anchored gillnet or lobster gear unless that person's gear complies with the following gear characteristics:

(1) *Anchored gillnet gear.* (i) *Ground line.* All ground lines area made entirely of sinking or neutrally buoyant line.

(ii) *Buoy weak links.* All buoy lines are attached to the buoy with a weak link having a maximum breaking strength of up to 1,100 lb (498.9 kg). Weak links may include swivels, plastic weak links, rope of appropriate diameter, hog rings, rope stapled to a buoy stick, or other materials or devices approved in writing by the Assistant Administrator.

(iii) *Net panel weak link.* Each net panel must have a total of five weak links. The breaking strength of these weak links must not exceed 1,100 lb (498.9 kg). The weak link requirements apply to all variations in panel size. Three of the five weak links must be located on the floatline. One floatline weak link must be placed at the center of the net panel, and two weak links must be placed as close as possible to each of the bridle ends of the net panel. The remaining two of the five weak links must be placed in the center of each of the up and down lines at either end of each panel.

(iv) *Buoy line.* No more than one buoy line per net string may be used, and it must be deployed at the northern or western end of the gillnet string depending on the direction of the set.

(v) *Gillnet anchor.* All anchored gillnets, regardless of the number of net panels, must be securely anchored with a holding power of at least a 22-lb (9.9-kg) Danforth-style anchor at each end of the net string.

(2) *Lobster Trap gear.* (i) *Sinking ground line.* All ground lines must be made entirely of sinking or neutrally buoyant line.

(ii) *Offshore Lobster buoy weak links.* All buoy lines must be attached to the buoy with a weak link having a maximum breaking strength of up to 1,500 lb (680.4 kg). Weak links may include swivels, plastic weak links, rope of appropriate diameter, hog rings, rope stapled to a buoy stick, or other materials or devices approved in writing by the Assistant Administrator.

(iii) *Buoy line.* No more than one buoy line per trawl is allowed. The buoy line must be attached to the northern or western end of the trawl string depending on the direction of the set. These requirements supersede the requirements found at §697.21, which require one radar reflector at each end of a trawl with more than three traps.

(ii) *SAM East.* (A) *Area.* SAM East consists of all waters bounded by straight lines connecting the following points in the order stated:

SAM EAST

Point	N. Lat.	W. Long.
SAM5	41°48.9'	69°24'
SAM4	42°30'	69°24'
SAM8	42°30'	67°26'
SAM9	42°30'	66°50'
SAM10	41°45'	66°50'
SAM11	41°45'	68°17'
SAM12	42°10'	68°31'

(B) *Gear requirements.* Unless otherwise authorized by the Assistant Administrator for Fisheries, NMFS, in accordance with paragraph (g)(2) of this section, from May 1 through July 31, no person may fish with anchored gillnet or lobster gear unless that person's gear complies with the gear characteristics found at paragraph (g)(4)(i)(B) of this section.

NOTE TO §229.32: Additional regulations that affect fishing with lobster trap gear have also been issued under authority of the Atlantic Coastal Fisheries Cooperative Management Act in part 697 of this title.

[64 FR 7552, Feb. 16, 1999, as amended at 65 FR 70317, Nov. 22, 2000; 65 FR 80377, Dec. 21, 2000; 67 FR 1141, 1159, Jan. 9, 2002; 67 FR 1313, Jan. 10, 2002; 67 FR 15494, Apr. 2, 2002]

EFFECTIVE DATE NOTE: At 67 FR 59477, Sept. 23, 2002, in §229.32, the heading of paragraph (f) and paragraph (f)(3) were revised; and paragraph (f)(4) was added, effective Oct. 23, 2002. For the convenience of the user, the revised and added text is set forth as follows:

§ 229.32 Atlantic large whale take reduction plan regulations.

* * * * *

(f) *Restrictions applicable to the southeast U.S. restricted area and the southeast U.S. observer area.* * * *

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(3) *Observer requirement.* No person may fish with shark gillnet gear in the southeast U.S. observer area from November 15 through March 31 of the following year unless the operator of the vessel calls the SE Regional Office in St. Petersburg, FL not less than 48 hours prior to departing on any fishing trip in order to arrange for observer coverage. If the Regional Office requests that an observer be taken on board a vessel during a fishing trip at any time from November 15 through March 31 of the following year, no person may fish with shark gillnet gear aboard that vessel in the southeast U.S. observer area unless an observer is on board that vessel during the trip.

(4) *Restricted period, closure and restrictions, and exemption.* (i) *Restricted period.* The restricted period for the southeast U.S. restricted area is from November 15 through March 31 of the following year, unless the Assistant Administrator revises this restricted period in accordance with paragraph (g) of this section.

(ii) *Closure for shark gillnet gear.* Except as provided under paragraph (f)(4)(iv) of this section, no person may fish with shark gillnet gear in the southeast U.S. restricted area during the restricted period.

(iii) *Restrictions for straight sets.* Except as provided for shark gillnet gear under paragraph (f)(4)(iv) of this section, no person may fish with a straight set of gillnet gear at night in the southeast U.S. restricted area during the restricted period. A straight set is defined as a set in which the gillnet is placed in a line in the water column, as opposed to a circular set in which the gillnet is placed to encircle an area in the water column.

(iv) *Special provision for strikenets.* Fishing for sharks with strikenet gear is exempt from the restrictions under paragraphs (f)(4)(ii) and (f)(4)(iii) of this section if:

(A) No nets are set at night or when visibility is less than 500 yards (460m).

(B) Each set is made under the observation of a spotter plane.

(C) No net is set within 3 nautical miles of a right, humpback, fin or minke whale.

(D) If a right, humpback, fin or minke whale moves within 3 nautical miles of the set gear, the gear is removed immediately from the water.

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§ 229.33 Harbor Porpoise Take Reduction Plan Implementing Regulations—Gulf of Maine.

(a) *Restrictions—(1) Northeast Closure Area.* From August 15 through September 13 of each fishing year, it is prohibited to fish with, set, haul back, possess on board a vessel unless stowed, or fail to remove sink gillnet gear or gillnet gear capable of catching multispecies, from Northeast Closure Area. This prohibition does not apply to a single pelagic gillnet (as described and used as set forth in §648.81(f)(2)(ii) of this title). The Northeast Closure Area is the area bounded by straight lines connecting the following points in the order stated:

NORTHEAST CLOSURE AREA

Point	N. Lat.	W. Long.
NE1	(1)	68°55.0'
NE2	43°29.6'	68°55.0'